



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,476	07/23/2003	Paul W. Skinner	021028-000120US	1328
37490	7590	06/19/2006	EXAMINER	
Trellis Intellectual Property Law Group, PC 1900 EMBARCADERO ROAD SUITE 109 PALO ALTO, CA 94303			NGUYEN, DINH Q	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,476

Applicant(s)

SKINNER, PAUL W.

Examiner

Dinh Q. Nguyen

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 35-79 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitations "having an interior and exterior" for the conduit was not disclosed in the disclosure.
3. The intended use languages such as: "for dispensing materials", "for conveying a substance", "for sensing a condition" are not positive cited, thus carry no patentable weight.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 35-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall, III in view of Adkins.

Art Unit: 3752

Hall, III discloses a vegetation dispensing device comprising: a conduit 190 with a channel 195 (see figure 14), an outlet 232 for conveying a substance 206a-c, a sensor 200 for sensing growing conditions and communicated with the conduit 231 via controller 10 (see figure 15), a flow control 205 for regulating an amount of substance, a microprocessor control system 10, the plurality of sensors such as soil moisture, ground temperature, ion concentration (as disclosed in column 15, lines 34-60). Hall, III does not disclose the sensor being coupled to the conduit. However, Adkins discloses an irrigation device with fluid flowing conduit 11 with sensor valve 50 couple to the conduit 11 for sensing ground moisture and controlling the water flow (see figures 1 and 3). Therefore, it would have been obvious to one having ordinary skill in the art to configure the device of Hall, III with a sensor being coupled to the conduit as suggested by Adkins. Doing so would provide a way to control fluid dispensing within the system (see Adkins's column 2, lines 47+). Furthermore, to place the sensors at regular intervals is obvious to one skilled in the art.

With respect to claims 41, 43-47, 50, 52, 53, 64, 66-70, 73, 75, and 76, Hall, III in view of Adkins do not disclose expressly the sensors such as leaf wetness sensor, insect sensor, DNA sensor, sugar accumulation sensor, pheromone sensor or protein sensor etc. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the Hall, III device with the above sensors, because Applicant has not disclosed that the above sensors provides an advantage, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with any

Art Unit: 3752

of the above sensors because they provide a way to monitor a condition of vegetation. Therefore, it would have been an obvious matter of design choice to modify the device of Hall, III and Chaplinsky to obtain the invention as specified in claims 41, 43-47, 50, 52, and 53. Furthermore, it is obvious to one skilled in the art to provide the Hall, III and Otten et al. device with any type of sensors (see Hall, III column 15, lines 43-45).

With respect to claims 60 and 78, Hall, III teaches that the apparatus is being used for grapes (see column 91, line 10).

Response to Arguments

6. Applicant's arguments filed 4/03/06 have been fully considered but they are not persuasive. Applicant amended the claims to overcome the rejection. The amended claims introducing the new matter as indicated above. Furthermore, in view of Applicant arguments, the Examiner rejecting the claims in view of the Adkins reference.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

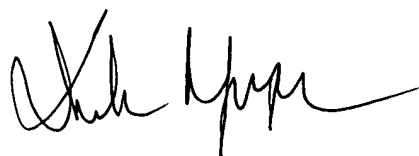
Art Unit: 3752

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Dinh Q. Nguyen
Primary Examiner
Art Unit 3752

dqn